

SENATE BILL NO. 322

INTRODUCED BY K. GILLAN, LIND

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DUTY OF A HEALTH CARE PROVIDER WHO PERFORMS A MEDICAL EXAM AT THE REQUEST OF A PARTY OTHER THAN THE EXAMINEE; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Duty of health care provider performing independent THIRD-PARTY medical examination. A health care provider who is retained by a third party to perform ~~an independent~~ A medical examination and advises the examinee about a medical condition during or after the examination has an obligation to exercise ordinary care to ensure that the advice complies with the standard of care for the health care provider's profession, but has no duty to discover ~~or to inform the examinee of the presence of a given~~ AN UNRELATED medical condition. THE HEALTH CARE PROVIDER HAS AN OBLIGATION TO INFORM THE EXAMINEE OF LIKELY DIAGNOSES THAT THE HEALTH CARE PROVIDER REASONABLY CONSIDERS. A HEALTH CARE PROVIDER WHO PROVIDES ACTUAL MEDICAL CARE OR TREATMENT INCIDENT TO A THIRD-PARTY MEDICAL EXAMINATION SHALL EXERCISE THE STANDARD OF CARE THAT THE HEALTH CARE PROVIDER WOULD HAVE EXERCISED IF THE EXAMINEE HAD RETAINED THE HEALTH CARE PROVIDER. For purposes of this section, "health care provider" has the meaning provided in 27-6-103.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, apply to [section 1].

NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2005.

NEW SECTION. Section 4. Applicability. [This act] applies to medical examinations performed after ~~[the effective date of this act]~~ JULY 1, 2005.

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